Counsel Listed on Signature Page

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

QUALCOMM INCORPORATED, a Delaware corporation,

Defendant.

Case No. 5:17-cv-00220-LHK-NMC

JOINT ADR STATUS REPORT

JUDGE: Hon. Lucy H. Koh

Pursuant to the Court's July 20, 2018 Order, the Federal Trade Commission ("FTC") and Qualcomm Incorporated (together, the "Parties") have met and conferred and respectfully submit this joint ADR status report indicating whether the Parties are willing to engage in an ADR session and if so, what type and by when. (ECF No. 783.)

Qualcomm's Position

Qualcomm has always been and remains willing to take part in ADR or bilateral negotiations aimed at resolving this case. To the Court's specific question, Qualcomm is willing to participate in, and believes the Parties could benefit from, a private mediation process conducted by a mutually agreeable third-party mediator. Qualcomm is willing to participate in such a mediation session by October 12, 2018, which is the week before the scheduled October 18, 2018 hearing on any dispositive motions. (ECF No. 678.)

FTC Position

The FTC's position is that no ADR process is likely to deliver benefits sufficient to justify the significant resources that would be consumed by its use. *See* L.R. 16-8(d)(3). This is a large case by any measure with more than 18 million produced documents; deposition testimony from more than 90 witnesses; and reports from 13 experts. Educating a mediator or neutral about the claims, defenses, and evidence would require significant party and ADR resources and could impose a substantial burden on the FTC. ADR is unlikely to add significant value to a bilateral negotiation process, which the FTC has been and remains willing to participate in. The FTC frequently settles litigation without any formal ADR process and there is no impediment to direct settlement negotiations in this case.

If the Court orders an ADR session, the FTC's position is that a settlement conference with a magistrate judge would be more useful and efficient than early neutral evaluation or mediation. The FTC's view is that a settlement conference would be most useful in the last two weeks of August, after the conclusion of expert discovery and prior to the deadline for summary judgment and *Daubert* motions. The FTC does not agree to participate in a private mediation session.

Dated: July 25, 2018

Respectfully submitted,

FEDERAL TRADE COMMISSION,

/s/ Jennifer Milici

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Dated: July 25, 2018

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FILER'S ATTESTATION

I, Gary A. Bornstein, am the ECF user whose identification and password are being used to file this Joint Case Management Statement. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that the signatories on this document have concurred in this filing.

/s/ Gary A. Bornstein
Gary A. Bornstein